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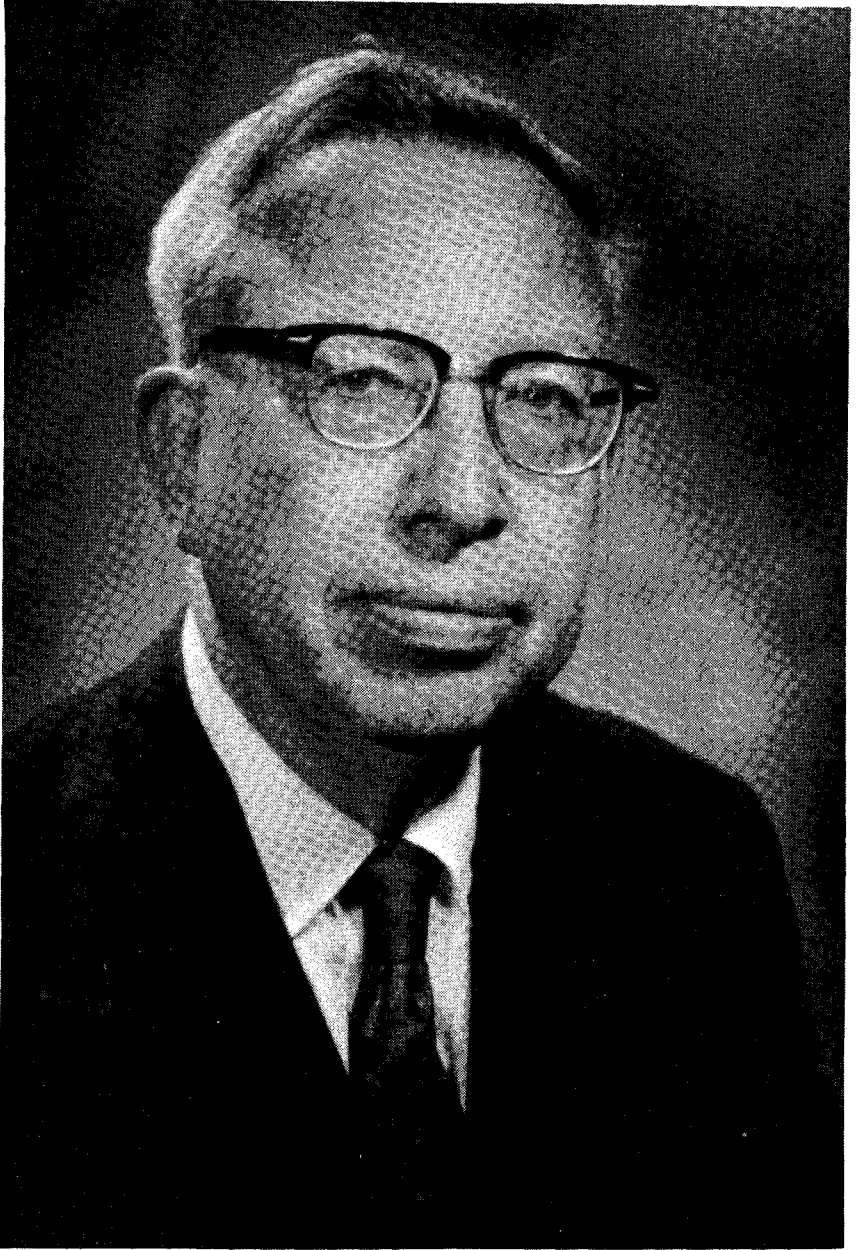
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A Tribute to Justice James D. Hopkins

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Milton Mollen, Marcus G. Christ, Frank A. Gulotta, Frank S. McCullough, Wilfred Feinberg, Robert B. McKay, Maurice Rosenberg, Arthur O. Kimball, and Frances R. Schoenbach



Justice James D. Hopkins

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A TRIBUTE TO JUSTICE JAMES D. HOPKINS

Hon. Milton Mollen*

Experience teaches us that every once in a while in the course of the history of a given field of endeavor, a person comes along who is truly a giant of his era. Such a person not only exerts a powerful influence upon his own times but leaves a permanent heritage for those who come afterwards.

In the field of jurisprudence, in the history of the law and the search for true justice, it can be said with absolute assurance that Justice James D. Hopkins is such a man. We can count ourselves fortunate that he came on the scene in our time. I certainly consider myself fortunate that I had the privilege of serving with him in the appellate division for the second judicial department during his last five years on our bench.

I served as Presiding Justice for the final four of those years and I can state without the slightest reservation that the arduous and demanding duties of that office were immeasurably easier for me because of Judge Hopkins' wise advice and counsel, his keenly discerning judgment, his quick and sure grasp of the most complex and troublesome issues, his great wealth of experience and his monumental store of legal knowledge. I know that all of my colleagues who served with him share that assessment of his contribution to the work of our court and, although more

* Presiding Justice, Appellate Division, Second Judicial Department, of the Supreme Court of the State of New York.

than a year has passed since his retirement from our ranks, they still miss him as much as I do.

The fact is that before coming to the appellate division, I had never met Mr. Justice Hopkins, but that was true only in the physical sense. For many years, I had been reading with admiration his lucid, well-reasoned, exhaustively researched and beautifully written opinions. As a consequence, I had developed an enormous respect for Judge Hopkins long before I had the opportunity to meet him in person. When that time came, I felt that I already knew Judge Hopkins quite well, at least insofar as his great capacity as a judge was concerned.

I was hardly alone in that experience. Judge Hopkins' unmatched judicial talents are known and respected the length and breadth of this country. I am a great believer in the importance and value of continuing education for lawyers and judges alike and attend many conferences and seminars in various sections of the United States, some as a student and some as a member of the faculty. Time after time, I have been gratified to learn that Judge Hopkins' outstanding reputation extends far beyond the borders of the second judicial department and the State of New York.

Before he retired, for instance, I traveled to Philadelphia to attend a conference of presiding justices and chief judges of appellate courts from all over the United States. As always happened, as soon as it was learned that I was Presiding Justice of the appellate division, second department, a number of the conference participants came to me and remarked: "Oh, you're a colleague of Jim Hopkins, aren't you?" I said that I was and, as was invariably the case, was treated to a prolonged recital of praise for Judge Hopkins. I was repeatedly told that he was a wonderful judge who was deeply and universally respected. There are many, and not just those who served with him in the judiciary of the State of New York, who believe that he possessed the finest judicial mind not only in his home state but in the United States.

May I hasten to say that nobody should entertain the idea that Judge Hopkins' superb opinions were fashioned on some lofty intellectual plane, aloof and detached from the world of practicality. They were, however brilliant and penetrating, solidly grounded in the real world of dispute and conflict, of human

beings contending with other human beings, of the clashing interests of accused criminals and the victims of crime, of the need to preserve individual rights and to adapt the law to ever-changing societal patterns. Judge Hopkins was a master at drawing from the experience of the past to cope with the problems of the present and the needs of the future.

His encyclopedic mind was a never ending source of astonishment to all of us who worked with him. He had an unbelievable ability, during his many years of service in the appellate division, to recall cases from the past in incredible detail as to names, dates and facts to help resolve a difficult current case.

As so many judges and lawyers in this state are aware, many of the published decisions of the court of appeals are, in their own way, a lasting tribute to the great judge whom we honor in this issue of the *Pace Law Review*. I refer, of course, to the many cases in which the court of appeals stated: "We affirm the judgment of the appellate division for the reasons stated in the opinion of Mr. Justice Hopkins," as well as to the many pronouncements of the court of appeals, in those instances when we were foolish enough to disagree with him, declaring: "We reverse on the dissenting opinion of Mr. Justice Hopkins in the appellate division."

The appellate division, as those familiar with us are aware, is a truly collegial court. We deliberate and consult as a body, those justices not directly involved in a given appeal assisting the four or five who are. We meet in consultation each Wednesday, seated around a large conference table. Mr. Justice Hopkins would sit at my right hand, symbolically as well as physically, as we discussed the most complicated and difficult cases, those in which there may have been substantial disagreement. Invariably, as the discussion would wind down, we would turn almost as a group to him. He would rarely, if ever, thrust himself forward in an attempt to override someone else's view and it would be up to one of us to ask: "Jim, what do you think?" And then we would enjoy the benefits of that rich store of judicial brilliance.

Any tribute to Judge Hopkins would be incomplete if it were confined to his great judicial talents and made no mention of his great human qualities—his warmth, his friendliness, his kindness, his humor, his modesty. His wide range of interests was always astonishing to us—we found out that they included

jazz, for example—and I will never understand how he found the time to be such an avid and prodigious reader in a great variety of subjects in the face of the overwhelming volume of reading required of an appellate division justice. The extent to which those outside interests must have widened now that he is free to pursue them and no longer has judicial burdens staggers the imagination.

Judge Hopkins reached the top in all three branches of government in his public career—as County Executive, as Chairman of the Board of Supervisors of his native Westchester County and as a Justice of the appellate division. He has been, by every measure, a superb public servant and a great human being.

Hon. Marcus G. Christ*

I have been asked to set down some of my thoughts about the Honorable James D. Hopkins now that he has retired as Acting Dean of the Pace Law School. This is not a biography but rather a personal impression of his nature, his competence and his character as formed by one who knows him intimately and who worked with him on almost a daily basis for more than fifteen years.

I had been an Associate Justice of the Appellate Division, Second Department of the New York State Supreme Court for several years when Justice Hopkins was appointed by Governor Nelson A. Rockefeller to a like position. Justice Hopkins had been an important public figure in the state, serving as Supervisor of the Town of North Castle, County Executive and County Judge of Westchester County and a Justice of the Supreme Court in the Ninth Judicial District. I had a slight acquaintance with him then, but I was soon to learn that a new and beautiful friendship was coming into my life.

Judges on an appellate court by the nature of the work fully disclose themselves to their judicial associates. In the process of decision, at first there are times of argument and discussion in the court room, and later in consultation of the court there is full and frank talk about all manner of human conduct, of good and bad things that people do. In formulating judgments while striving for agreement, judges bare the mind. Sometimes it is an ethical or moral standard; at other times, a social or economic point of view shines through. Associates soon take the measure of fellow justices. They discover attitudes on human frailty, on the abuses of power and on the myriad of components that are the ingredients of the amorphous and intangible concept that we call justice under law, and about which there frequently are widely divergent opinions.

The association and friendship is much more inclusive than just the experience in the work of the court. There is the delight of the daily luncheons, the acquaintance with the wives and chil-

* Former Presiding Justice, Appellate Division Second Judicial Department, Supreme Court of the State of New York.

dren, times in recreation at the theatre, the opera or the ballet or sailing on the Long Island waters. It is in the intimacy of this camaraderie and in the light of the experience of our separate long and busy lives that the judgments here expressed were formed.

Jim Hopkins is a very kind person, careful in his relations with people not to offend or hurt another by words or action. In conversation and in the give and take of the adversary work of the court, he expressed himself with firmness but he never by design embarrassed one holding a contrary view. He was successful in bringing others to his point of view by stating his points in a manner that permitted an adversary to come easily around without loss of face.

Kindness and generosity are brothers. Although he was ever deeply occupied, he was never too busy to help another. It is here that his depth of learning and extensive knowledge in the law gave support to his colleagues. He has a prodigious memory for statutes and cases and can call on this reserve with dramatic effect.

His wide-ranging interest in all fields of activity have made him a voracious reader. He goes through books at an astounding rate and he knows what he has read and retains it for future reference.

It is this talent combined with his love of people that has made him a leader in whatever company he may be found. He is in fact not reticent but he does not push; he is modest, but his strength is truth, reliability, knowledge and competence.

In his research, he goes wide and deep. At court he thoroughly studied the facts and the law in each case. He was always extremely well informed on both. His judgments were sound and his arguments persuasive.

Judge Hopkins' beginnings were in the country. The woods, the fields, the farms and the one-room school are in his history. He has long roots in the land and his forebears were always active in public and community concerns. The elemental forces which shaped his early life are evident today in much of what he does and how he lives. Hard work, persistence, neighborliness, friendship and reliance upon self become him easily; they are vestiges of his boyhood. Good formal college and law school education and worldly experience have widened his usefulness but

they have not dampened or changed the fundamental gifts of character which have served him so well.

He believes in a divinity that brings order to the universe. He believes in the freedom and protection of the person as more recently defined by the words "human rights." He believes that among the human rights is the right to own and possess property. He believes that it is the duty of government to protect the person and the property with its full authority and power.

It is no surprise in the context of his past that the old virtuous admonitions—tell the truth, keep your promise, do your work, save your money and love your family, shine through in all he does with a bright and piercing beam of light.

It will please you to know that he has a broad interest in life beyond his studies in the law. He is an artist extremely capable with brush and canvas. He is good at doggerel and verse. On occasion these writings become quite acceptable poetry. He has authored several novels yet to be published. He is a horticulturist and one may see the fruits of this skill in the beautiful estate on which he and his lovely wife "Bert" live in the village where he was born.

He has been called upon by, and has served, national, state and local associations of judges and lawyers, by governors and judges in high judicial position and by people in all levels of society and all walks of life to assist them in fulfilling their responsibilities.

Despite the praise and the evident affection and regard which marks this piece, I shall always feel that I have understated the beauty and the intrinsic worth of this good man.

Hon. Frank A. Gulotta*

"I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New York and that I will faithfully discharge the duties of the office of Town Councilman of the Town of North Castle according to the best of my ability." Thus, in 1939, at the tender age of twenty-eight, began the public career of James D. Hopkins. Six years before, he had received his diploma from the Columbia School of Law and immediately thereafter had embarked upon the practice of law, becoming associated, in turn, with two of Westchester County's most prestigious firms. An instinctive ability to grasp and solve difficult governmental problems plus his skill in bringing together many social, philosophical and economic forces for the benefit of the citizenry, brought his talents before the critical eye of the electorate and so he was successively elevated to the positions of Town Supervisor of North Castle, Chairman of Westchester County's Board of Supervisors and, in 1954, its County Executive.

However, "Jim" Hopkins' first love was for the law and all it means in maintaining an orderly society, attaining social justice, and in fairly resolving differences amongst people; consequently, in 1958 he veered from the legislative and executive branches of government to the judicial, bringing with him twenty years of accumulated wisdom, knowledge and practical experience in dealing with people and governmental agencies. These valuable assets, coupled with his delicate sense of justice, served as a base for Jim's promotions to a county court judge, a justice of the supreme court and in 1962 his designation by Governor Nelson A. Rockefeller as an associate justice of the appellate division in the second judicial department, reputed to be the busiest appellate court in the nation. By December 31, 1981, the date of his retirement from the bench, he had dedicated twenty-four fruitful years to the judiciary.

It is difficult to give a capsule history and truly accurate analysis of Justice Hopkins' service and loyal devotion to the law

* Former Presiding Justice, Appellate Division, Second Department, Supreme Court of the State of New York.

and the many contributions he has made to it, but perhaps a quote from Daniel Webster is, to some degree, illustrative and descriptive of his outlook:

Justice is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness, and the improvement and progress of our race. And whoever labors on this edifice with usefulness and distinction, whoever . . . strengthens its pillars, . . . or contributes to raise its august dome still higher in the skies, connects himself, in name, and fame, and character, with that which is and must be as durable as the frame of human society.¹

This thought, I believe, forms the mold into which Judge Hopkins' judicial life was cast and places him in that special category described by Webster.

The law books and legal periodicals are peppered with Judge Hopkins' many scholarly articles, decisions and legal philosophy. I shall not detail those contributions. Suffice it to say, however, that to ascertain the respect and the esteem in which his opinions are held, one need only note how time and again the court of appeals has "[a]ffirmed on the opinion of Hopkins, J." His writings demonstrate a great clarity of thought, a depth of knowledge and a sharp analysis of problems.

It was my extreme good fortune to have served with him on the appellate division bench for some eleven years preceding his retirement. He is a quiet, calm, unassuming but analytical man invested with a superlative mixture of admirable qualities and diversified interests. His constant search for truth and his unquenchable thirst for knowledge know no bounds, whether it be in the law, history, science, music, literature or any of the other humanities. He is as much at ease discussing in detail Cab Calloway or the "St. Louis Blues" and their significance in the era and evolution of jazz as he is in speaking of Benjamin Cardozo or Oliver Wendell Holmes and their importance in molding the law; he can speak equally on the philosophy of Socrates or the deductive thinking of Sherlock Holmes. His readings cover all

1. D. WEBSTER, ON MR. JUSTICE STORY (1845).

subjects and all spans of time. He has a voracious appetite for paperback novels and, I have it on good authority that after completing all his other work, he settles down to reading one per night for relaxation.

He has a most retentive memory and it would not be unusual for Jim, during any one of our consultations, to remark that he thought a case decided some years before was somewhat similar to the one under discussion at the moment. He would then rise from his seat at the consultation table, go to the library shelves and pick from memory the volume in which the case was reported. He had another distinctive and sometimes discomposing trait: when members of the bench seated around the conference table would, each in turn, discuss his position on a particular case, Jim would listen quietly and respectfully, nod his head each time as though in agreement with his colleague and then when it came his turn, he would cause some consternation by very quietly saying, "I tend to disagree." He would then give his reasoning which was usually very convincing.

On the bench he was most courteous with lawyers, listened attentively to their arguments, and then almost apologetically asked some question which would unravel the entire dilemma and solve the issue involved.

While the name Justice James D. Hopkins is one highly respected in legal and judicial circles throughout the nation, amongst us, his colleagues in the second judicial department, he is spoken of additionally, with great affection. He is a warm, friendly and amiable person. As a lawyer and judge, his progressive and forward looking viewpoint and his painstaking, deliberate and analytical mind have chartered new routes in the changing sea of the law, keeping pace with an advancing society. His thoughts are always clear and refreshing and although profoundly respectful of *stare decisis*, he has never hesitated to ventilate some of the mustier corners of the common law, when warranted. He always has discharged his responsibilities with great dedication, care and concern and has helped to keep our court on an even keel.

Jim is an unusual man. In addition to being gifted intellectually, he possesses one of the most valuable assets a man can enjoy — one that can neither be bought nor sold. It is the good will and warm feeling of friendship, admiration, respect and es-

teem that his fellowmen, his profession and his colleagues on the bench have for him. His sense of fair play, ethics, justice and understanding has been an inspiration to us all. The excellence with which he has executed the public trust imposed upon him in each of the offices he has held bespeaks an extraordinary commitment to duty and a remarkable capacity to perform — a rare quality indeed which grows in stature when exercised with the human warmth, the fairness and the gentle strength of our brother, James D. Hopkins.

His decision to undertake the burdensome and exacting position of Acting Dean of Pace Law School, at a time when he had hoped to spend his retirement years in rest and relaxation, doing whatever he chose, is but another example of his devotion and commitment to the law and those connected with it.

A champion of right, a learned and able jurist, one who has dedicated his life to the highest principles of law, a warm, understanding and respected individual, Justice James D. Hopkins, we, your colleagues, salute you!

Hon. Frank S. McCullough*

The dedication of this issue of the *Pace Law Review* is a recognition of the unusually long and varied career, full of accomplishment, of Judge James D. Hopkins.

The family of Judge James D. Hopkins had its roots in the Town of North Castle from, to use a quotation from Blackstone's Commentaries, "time whereof the memory of man runneth not to the contrary." His grandfather, his great grandfather and his great-great-great grandfather all served as Supervisors of the Town of North Castle, as did Judge Hopkins.

At sixteen years of age, after attending a one-room grammar school and graduating from Pleasantville High School, Judge Hopkins entered Columbia College. He graduated from Columbia College in 1931 and its Law School in 1933 after a distinguished academic career. He was admitted to the practice of law in 1934. After graduation he became associated with Strang and Taylor and subsequently with Bleakley, Platt and Walker, where he became a partner.

He was elected Town Councilman of the Town of North Castle, which embraced Armonk, in 1938. This was the beginning of long and dedicated public service. Subsequently, he was elected Supervisor of the Town of North Castle and as such was the Town of North Castle representative on the Westchester County Board of Supervisors. He was elected Majority Leader and later Chairman of the Board.

In 1953 he was elected County Executive of Westchester County where he served until his election as County Judge in 1957. With his ascension to the bench he became the first and only person in the history of Westchester County to have held the three top positions in the Legislative, Executive and Judicial branches of county government.

Governor Nelson Rockefeller appointed him to the supreme court in September 1960. He was thereafter elected and re-elected to the supreme court and, in 1962, was appointed to the appellate division, second department, where he served until his

* Former Administrative Judge of the Ninth Judicial District; of counsel to the firm of Taylor, McCullough, Geohegan & Friedman.

retirement on December 31, 1981. Upon his retirement he agreed to serve as Acting Dean of Pace University Law School until a permanent Dean was appointed.

This recitation, incomplete and brief as it is, of Judge Hopkins' career is set forth to portray the great mixture of experience and talent that he brought to the judicial system. He was and is a man of deep learning in the law, diligent and industrious, with a clear logical mind buttressed by a passion for justice. No lawyer who ever appeared before him experienced anything but consideration and patience.

He is independent without being arrogant, decisive but impartial, patient and courteous, with a social consciousness honed by public service and a warm understanding heart. His life and career has been a reminder that there are deeper values in life and that once in a great while we find a man dedicated to them.

During his years on the bench he gave unselfishly of his time for the betterment of the profession. The author of many law review articles, he served on faculties of judicial seminars sponsored by the Institute of Judicial Administration of New York University, the Appellate Judges Conference and the District Attorneys Association. In addition, he served as Chairman of the Judicial Section of the New York State Bar Association, Director of the National College of the State Judiciary, member of the Federal - State Council of Judges, the Advisory Council for Appellate Justice, the Committee on Uniform Admission Practice, the Temporary State Commission of Judicial Conduct, and as Chairman of the Appellate Judges Conference of the American Bar Association.

With all these activities he still had time to serve Columbia, his alma mater, as President of the Columbia Law School Alumni Association. In 1978 Columbia awarded him its Medal for Conspicuous Alumni Service.

Judge Oliver Wendell Holmes once wrote, "[i]t was given to us to learn that life is a profound and passionate thing." Judge Hopkins by his career has shown that a life greatly pursued benefits not only one's self but all those with whom one comes in contact.

Some years ago, Judge Charles Desmond, former Chief of the Court of Appeals, described what he believed should be the juridical quest in these words:

For better or worse, we have given our lives and such abilities as we have, to furthering the great cause of justice. I like to think we are something more than just workaday practitioners. I think we are helpers of a dream in our time, . . . a dream that was old when the world was young, a dream that will never die, a dream of open courts dispensing equal justice, the dream of peace and good will through law.

Judge Hopkins in his retirement should be blessed with peace and contentment of mind, because he has, during his years of public service, faithfully fulfilled that quest, devoting his high talents and strong character to work for his beliefs; in all modesty, he should know that he did it honestly and well. He is a superb legal craftsman who has left the law richer in sound precedent for the opinions he has written during more than 23 years upon the bench.

Unfortunately, in the words of an old saying, "[t]here's a time for comin' and a time for goin'." Despite everyone's wish to prolong his judicial career he has made a choice that "the time for goin'" has come. We cannot in good conscience quarrel with his decision because he has lived a trinity of lives — home, community, and professional — to the full, much more than is given most men to do.

Hon. Wilfred Feinberg*

I cannot recall the first time I met Jimmy Hopkins. It may have been in connection with a Columbia Law School activity because he was and is a loyal son of Columbia (College '31, Law School '33), having served not only as a director and officer of the Law School Alumni Association, but eventually as its president, and having received various alumni awards. It may also have been at the first meeting of the Advisory Council for Appellate Justice, a group of judges, academics, and lawyers, magically put together by Professor Maurice Rosenberg and Judge Shirley Hufstедler, among others, which came out of nowhere in 1970 and proceeded to help revolutionize thinking about the ways of appellate courts by making a series of sensible suggestions, culminating in a five-volume treasure trove entitled *Appellate Justice 1975*, produced for a national conference that year.

Moreover, I can hardly remember when I first heard about Jimmy Hopkins. As a resident of Westchester County for over fifty years, I must have had his name percolating through my consciousness without knowing it, since he had served in various public positions in local and county government for a large part of that time, including Councilman and then Supervisor of the Town of North Castle, Chairman of the Westchester County Board of Supervisors, Westchester County Executive and County Judge, Westchester County. Not many people have served at the highest level in all three branches of government, and Jimmy Hopkins may have been the first to do so at the county level in Westchester, even before he achieved eminence as a Judge of the appellate division, second department.

What I do know is that all I ever heard about Jimmy Hopkins was undiluted praise, coming from the most unlikely sources — political opponents, rivals for various appointments, people who did not share his views on one matter or another. Everyone seemed to agree that here was a man of quality, intelligence and fairness. And yet—when one first met Jimmy, he seemed too quiet, too modest to attract all those compliments.

* Chief Judge, United States Court of Appeals for the Second Circuit.

Modesty, after all, is a double-edged sword. Who can forget Churchill's remark about Clement Atlee, "[a] modest man with much to be modest about"? But it did not take long to discover that Churchill would never have applied that remark to Jimmy. The Advisory Council for Appellate Justice contained some of the most articulate and splendid talkers of the century, most of whom did not hesitate to talk at great length, although charmingly. At the Council's numerous sessions, Jimmy did not talk very much. But when he had something to say, it was like the E.F. Hutton commercial — people stopped talking and listened.

I also recall an airplane ride back from some far away meeting place when I had the good fortune to be sitting next to Jimmy. We spent most of the time talking about books, not legal, that is, but fiction of one kind or another. His knowledge and enthusiasm were impressive and infectious. And so it came as no surprise to me that when he had to leave the appellate division because he was 70 years young, he intended to change careers at this new stage of his life and work on a novel. Or at least that was his intention until Pace Law School snagged him to be its Acting Dean. I am told that this was an emergency and anyone who knows Jimmy knows that he would never turn a deaf ear to a lawyer or law school (or anyone else, for that matter) in need.

The Pace Law Review is wise and inspired in paying tribute to Jimmy Hopkins. He has been, among other things, a great judge and an outstanding public servant. I am confident that fields remain for him to conquer.

Robert B. McKay*

The American dream is still viable. Justice James D. Hopkins is a case in point. Although born in 1911, well into the twentieth century, he still attended a one-room school in Armonk, leaving there to attend high school in Pleasantville and college and law school at Columbia University.

Surely no one epitomizes more the American lawyer success story than Justice Hopkins. He engaged in a conventional private practice from 1933 (even before graduation from law school) until 1960, when he was appointed by Governor Nelson Rockefeller to the Supreme Court of the State of New York. In the meanwhile, he served as Councilman for the Town of North Castle (1939-43), Supervisor of that town (1944-53), Chairman of the Board of Supervisors of Westchester County (1952-53) and County Executive (1954-57). Beginning in 1958, he served as County Judge of Westchester County, until 1960 when he was first appointed to the supreme court. He was elected to two 14-year terms in the supreme court in 1960 and 1974, and in 1962 Justice Hopkins was appointed to the appellate division, second department, where he served until his retirement.

But that is only the public record. Jim Hopkins is a judge for all seasons. He is a judge's judge, whose opinions across the entire spectrum of the law are respected as innovative when the occasion arises, yet always respectful of precedent. No one comprehends the full perspective and contribution of any individual; certainly I lack that full knowledge of Jim Hopkins as jurist, reformer and teacher. But I do know one side of his multi-faceted career. He is a superb teacher, whether of appellate judges in the United States or of Nigerian judges who seek an understanding of the American appellate process. This talent I know, for I have seen him at work as a member of the faculty of several Appellate Judges Seminars and of the Special Seminar for Nigerian Judges, all sponsored by the Institute of Judicial Administration. It is indeed impressive to see Justice Hopkins adapt himself to each particular audience in his customary relaxed manner — informational but informal, helpful but authoritative. No one

* Director, Institute of Judicial Administration.

conveys better than Jim Hopkins the sense of ethical responsibility consistent with a respect for the vital role of precedent.

Maurice Rosenberg*

The modesty of James D. Hopkins is so formidable that superlatives aimed in his direction simply bounce off. Still, it is hard not to pull out all the stops in writing about him. He is, to use a vastly overworked word, "special." It is an honor to have a chance to notice that fact in connection with a few of his activities about which I have firsthand knowledge.

In 1978 Justice Hopkins received the Columbia Alumni Medal for Excellence. The citation ended with two sentences I am sure every group he ever worked with would want to adapt to sum up its own estimate of him. The sentences read as follows:

There could be no more deserving man for the alumni medal than the Honorable James D. Hopkins, with a record of unsurpassed dedication and loyalty to the law school and students. Justice Hopkins has earned his place in our hearts at Columbia during more than half a century.

Justice Hopkins was graduated from Columbia College with a Bachelor's degree in June 1931. Two years later he was awarded an LL.B. by the Law School. For whatever he derived from his schooling on Morningside Heights, the faculty and students of Columbia have been handsomely rewarded by his friendship, decency, warmth, and wise counsel. Columbia sons and daughters count themselves among the most richly endowed of the innumerable Hopkins' beneficiaries. For more than thirty years he has been a steady and strong supporter of the law school alumni association. During 1974-1976 he served as its president and his leadership produced two of the best and most productive years in the history of the organization.

My earliest working relationship with him began in 1971 when we began serving as members of the Advisory Council for Appellate Justice, a national group that was dedicated to improving the structure and procedures of appellate court systems throughout this country. The twenty-five member council included such notable people from the federal side as Griffin Bell,

* Professor of Law, Columbia University School of Law.

Wilfred Feinberg, Floyd Gibson, Erwin Griswold, Shirley Hufstedler, the late Harold Leventhal, Wade McCree, Carl McGowan, and John Minor Wisdom. From the state courts were such luminaries as Chief Judge Charles Breitel, Chief Justice William A. Grimes, Justices Benjamin Kaplan and Walter Schaefer, and Chief Justices Roger Traynor and Joseph Weintraub. Justice Hopkins was quite at home in that eminent company. He was regarded with affection by the members of the Council and was respected and listened to as one of the most thoughtful, productive and fair-minded members of the group. His opinions were always quietly and deferentially advanced, but the wisdom and work that lay behind them were evident whenever he spoke.

We worked together again, along with Robert MacCrate, starting in the summer of 1981. This time the venture focused on the appellate courts of New York State—their functions, structure and processes. Justice Hopkins contributed a wealth of sound specific information and insight with regard to the New York appellate courts, and, of course, particularly about the work of the appellate division. His contributions were always marked by care, soundness, and clarity—and his assignments were usually completed way ahead of schedule.

My friendship with Justice Hopkins over the years has convinced me that working with him must have been, for his colleagues on the court and for all the others who labored alongside him in each branch of state government, a source of pure gratification. The way he combines great talent, great energy, great intelligence and great goodness in one person could give virtue and character a good name. Indeed, his tenure for barely a year in the deanship of the Pace University School of Law almost threatens to give deaning an aura of respectability.

Justice Hopkins' modest and unassuming view of life is belied by all the products of his outstanding career. One of his writings has a title that I suspect he regarded as a bit autobiographical. The title is attached to an article he wrote about the appellate process in 1972 and is called *Small Sparks from a Low Fire*.¹ That may be what he thinks of himself, but those who

1. Hopkins, *Small Sparks from a Low Fire: Some Reflections on the Appellate Process*, 38 BROOKLYN L. REV. 551 (1972).

have been privileged to know him or his work see him much more pryotechnically—as a beacon, whom we shall look to for many years to come.

Arthur O. Kimball*

There is nothing that strikes you as in any way extraordinary about Jim Hopkins when you first meet him, although you certainly see why everyone likes him so much. He is congenial, courteous, unflappable — all those quiet virtues that make a person a pleasure to work with.

Then, after a while, you start to sense that this is not just a nice fellow. You recognize that you are in the presence of an absolutely first-rate mind, with a tremendous capacity for discrimination and insight. You begin to see the fineness of his judgment, the clarity of his intelligence, the real depth of his character. I understand that there are many more facets to him that still have not been revealed to me — that he gardens, writes poetry, and in general is a remarkably versatile and talented person.

* Associate Dean, Columbia University School of Law

Frances R. Schoenbach*

Law assistants privileged to serve in the Appellate Division, Second Department of the Supreme Court of the State of New York during the years in which Judge Hopkins was an Associate and then Senior Justice of that court had a rare opportunity to continue their study of the law under a master teacher. Despite the demands of his position, he always made time when his advice was sought on complex matters and he was patient with inarticulate groping as he guided the law assistant to a lawyerly analysis, presentation and resolution of the issues.

If on occasion he was surprised at our approach to a problem, he permitted himself at most a quizzical look or a slight smile. Then extending himself to help, he would draw upon his prodigious memory and share his knowledge and insight with us. He would often preface a referral to some legal principle or case with a "you will recall that in the case of _____ v _____, Judge _____ said . . ." or "as you know, Maitland wrote" We were never placed in the position of being forced to expose our ignorance. Of course, in the infrequent instance when he did not immediately recognize a case cited to him, he was quick to acknowledge it. Thus, treating us as colleagues, he introduced us to unfamiliar resources and guided us to previously unknown paths of research. His enthusiasm was contagious as he personally demonstrated how to explore and make use of them.

Consultations with Judge Hopkins were also rewarding in another special way. Through some mysterious alchemy, after consultation with him, the law assistant's self-confidence and feelings of self-worth were increased. It was not uncommon for a law assistant to emerge from his chambers with a bemused expression and the surprised comment, "He raised me to his level." In this manner, our knowledge was more deeply integrated by exposure to legal history and philosophy, our appreciation of the forces that shape the law was extended by the breadth of his vision and our pride in ourselves as lawyers and in our positions was enhanced.

* J.D., 1937, Boston Univ. Law School (*magna cum laude*); a Principal Appellate Law Assistant, Appellate Division, Second Department, for 10 years.

Women law assistants had particular cause for grateful surprise for he always treated us as competent attorneys. When, at times, application of a familiar rule of law apparently led to an unjust result, thereby evoking from the law assistant a rebellious "It's unfair," he did not terminate discussion with the comment that the law assistant's feelings did her credit. To the contrary, he quietly responded "That's not a legal argument." Always encouraging, he led us to the realization that it was not enough for an attorney to present the pertinent facts and indicate inequities (the court is not a legislature); for an attorney to be persuasive, feelings must be translated into sound legal arguments. From him, we learned that great jurists, scholars, philosophers and historians have already provided the tools. The task of the lawyer is to discover them, learn how to use them and, with the aid of imagination, adapt them to new factual situations. This may seem matter of course and unworthy of comment to the law students and young attorneys of today. It may be that only those who entered the legal profession some years ago can appreciate the impact of this experience on women attorneys accustomed at best to tolerant condescension. On us, the effect was nothing less than a rekindling of our enthusiasm for the law.

Modest and unsparing of himself, he was always considerate and appreciative of the time and efforts of others. No matter how great the pressure, he never lost perspective, retaining on the one hand his sense of humor and on the other his sense of what was due the litigants. His perception and understanding of human behavior were sharpened by extensive reading of literature. His knowledge of the law and his scholarly attainments alone would have made him a fine judge. His warm humanity made him a great one.